Translation Strategies of Cultural Specific Terms in Legal Texts

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1. Introduction

The study of translation strategy allows us to study the way translation works. It clarifies which option the translator has chosen to carry out the translation, i. e. , which plan or method has been chosen, and how s/he has solved. How has the translator solved the problems that have emerged during the translation process, i. e. , which strategies have been chosen? In this sense, a strategy is carried out through a process which consists of a sequence of decisions and executive processes. The ultimate goal of the translator is to come up with a desirable target language (TL) text interpretable to the reader. This goal may be realized by choosing the best strategy, amongst several alternatives, adopted by the translator. The question then arises as to what strategy a translator can choose to encode the information presented in the source language (SL) and capture something of the legal register which primarily aims at readability and secondarily, at retaining a close fidelity to the tenor and tone of the original to make the target text (TT) comprehensible and intelligible. In legal texts, the main interest of the present

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study, for instance, translators can not provide an accurate translation of certain notions unless they have a clear understanding of the overall institutional system to which they belong. Many concepts used in various disciplines are shared internationally, but the law of the country can not be separated from its culture (Selmi and Tronille, 1999:2). The legal translator has to resort to cultural transposition when confronted with foreign concepts that do not exist in the (TL). Since most legal concepts are the product of a national legal system, the terminology of the different system is "conceptually incongruent"(Sarcevic 1997: 232). In legal translation, due to the systemic differences in law, many legal terms in one language do not find ready equivalents in another, causing both linguistic and legal complications.

Since the physical nature of signifiers in one language can never be duplicated in another, the relations of signifiers to signified cannot be expressed in another language (House 1997: 48). The distinction thus needs to be made whether equivalence refers to the sense or whether it is a case of reference. Most European languages have exact equivalents for the various aspects of ‘sense’, but the problem arises with cultures in which such equivalents are lacking, such as in the case between Arabic and English. These problems are dealt with by some theoreticians such as Koller (1995) and Hatim(1997). Hence, the translation of legal texts, especially legal specific terms, presents particular difficulties for the translator and researcher owing to the cultural disparity between different legal systems

One of the genuine problems related to researching translation strategies is that there is no unanimous agreement on the concept of translation strategy itself. Strategies can not usually be observed directly; they can only be inferred from translators' options when translation is involved. . Different terms have been used such as methods, techniques, approaches, procedures, and these terms are sometimes overlapped and interchangeably used.

This paper aims at analysing what strategies student translators adopt when facing problems of cultural terms in legal texts ; explaining the strategies followed by the student translators and why some strategies are more appropriate, hence resorted to than others; and attempting to answer the question: what are the dominant and most appropriate strategies adopted in translating cultural terms in legal text ? In doing so, the study can enhance the student's awareness of conceptual disparity arising from culture-specific terms.

This study puts forward the following hypotheses to be investigated:

1-Due to the peculiarity of legal texts, certain specific translation strategies are resorted to rather than others. Inappropriate renditions are, hence, most likely to disturb the thought processes on the part of the (TL) reader.

2- The imitation or reproduction of certain cultural terms are assumed to yield grave mistakes, which in turn disturb the thought if the translator is not fully aware of different cultural factors.

In the test carried out in this paper, renderings of cultural terms were typified and recorded in all the translated texts in the samples. And then evaluated against the translations provided by the researcher depending on the semantic interpretation of the terms, and judged by competent proficient translators. The translations provided of the (SL) cultural terms as (TL) equivalents are judged as being either appropriate or inappropriate. Appropriateness in this study is used to mark “pragmatic success”(van Dijk, 1977), whereas inappropriateness is judged when (TL) equivalents of cultural terms did not help TL readers interpret the meaning of the (TL) cultural terms as intended by the text producer, and did not conform with the semantic functions of the cultural terms in the (SL) texts.

The corpus of the study includes translations from English into Arabic(the student translators’ native tongue). Eight legal terms taken from (**http://en. wikipedia. org/wiki**) were given to ten M. A candidates at the Translation Department of Mosul University in Iraq to be translated as a homework. The eight cultural terms of the students' renditions were analyzed according to central strategies translation strategies suggested by (Lörscher, 1991; Molina and Albir 2002 ; and Gregory, undated).

2. Source Language-Oriented vs. Target -Language Oriented Translation

Present-day theory of translation divides between the source language-oriented and target language-oriented

translation. These two orientations have been adopted by Nida's distinction between "Formal Equivalence" and "Dynamic Equivalence" translation (Nida 1964: 159) or to use the terms “semantic” and “communicative” translation as applied by Newmark(1988). By the same token, Venuti (1998:240) employs the concepts of "domestication" and "foreignization" to refer to translation strategies. According to Venuti (1995: 20), the source language-oriented method puts "an ethnodeviant pressure on [target-language cultural] values to register the linguistic and cultural difference of the foreign text, sending the [target] reader abroad". Using this method, the translator is faithful to the (SL) text producer and is expected to preserve the foreign identity of the source text ; that is, to preserve the linguistic and cultural differences of the source text by seeking the "purely 'formal' replacement of one word or phrase in the (SL) by another in the (TL)" (Hatim & Munday cited in, Ngo 2006). In this sense, this method can afford to make more demands on the reader who wishes to experience something of the ‘feel’ or even ‘awkwardness’ of the original. Target language-oriented method, on the other hand, involves "an ethnocentric reduction of the foreign text to target-language cultural values" (Venuti 1995: 20), and allows the tailoring of the source message to the linguistic needs and cultural expectations of the receptors. The typical characteristics of this method of translation are "fluency, " "naturalness, " "transparency, " and "readability" (Venuti 1995). The concern with fluency and naturalness in TL-oriented translation means that it allows alterations or adaptations of the (SL) items. According to Nida, naturalness

is a key requirement in this type of translation, to such a degree that it "bear[s] no obvious trace of foreign origin" (Nida 1964: 167) and gives the illusion that the text is not a translation, but appears as if it were written in the (TL).

3. Legal Translation

One feature of legal language and legal translation is the use of legal terms unique to law, the so-called system-bound words. There are many such terms among which are (1) words associated with legal personnel; (2) words associated with court structures; and (3) words associated with particular areas of law and institutions(Cao, 2007:60). In translating legal texts, Harvey(2003:1) argues that there are two main elements that can not be ignored: cognitive elements and communicative elements. The first one means being aware of the socio-cultural context in which both the (SL) and the (TL) texts are produced and received. In other words, the comprehension of any text should basically involve all accumulated knowledge on the part of recipient including schemata, beliefs, inferences and expectations that are the store of personal, social and cultural life (Hervey and Higgins, 2002:7). The second element includes taking into account the intended function of the (TT) and the nature of the addressee.

Four major terminological areas that may pose problems in legal translation are considered in this paper. These are (1) legal conceptual issues and the question of equivalence and nonequivalence of legal concepts in translation; (2) legal terms that are bound to law and legal institutions; (3) legal language

as a technical language in terms of ordinary vs. legal meanings, and legal synonyms; and (4) terminological difficulties arising from linguistic uncertainty such as vagueness and ambiguity(Cao, 2007:54).

A frequently encountered challenge in legal translation is the translation of legal concepts. They are often legally system-bound. In translation, words from different languages are rarely the exact equivalent in all three dimensions. In particular, culture-specific criteria play a role in legal concepts (Sandrini, 1996). A terminological comparison between one language and the other is based on concepts and terms. In the sphere of language, a concept is identified by a term that may consist of a single word or of a group of words or even letters or graphical symbols. A legal concept is three dimensional based on Peirce’s semiotics; that is, it has linguistic, referential and conceptual dimensions. To ascertain whether a concept in one language can be translated as a concept in another language, whether these concepts are equivalent or similar in these three dimensions should be considered (Cao, 2007:62).

4- The Concept of Strategy

The term "strategy" used differently by different theorists and researchers in various disciplines such as text linguistics (Enkvist:1989) the practical teaching of composition (Daiker et al. 1977, cited in Swan, 1979), language learning (Chamot, 2005) and translation (Krings, 1986; Lörscher, 1991;Naoum, 2001) . However, it is challenging to make a certain definition of this term. The concept of strategy has been perceived from different

perspectives. For example, Enkvist (1990:25) views that a strategy is "a processual rather than structural term". In order to define what is meant by strategy, processual frames of thought must be taken into account. Such frames, according to him, can be borrowed from decision theory and to define what is meant by decisions and choices do not arise unless priorities are given to one alternative rather than to others, and the assigning of priorities is a matter of strategy. A strategy is "Janus-faced" (Enkvist 1990:xix). To Enkvist (1981:73) a goal-oriented program is called a strategy. Although used by many prominent writers, the term strategy is still controversial. Consensus is not assisted by some writers who use conflicting terminology such as tactics and techniques (Stern, 1992), procedures(Chesterman, 1997, ch. 4 ; Ngo, 2006) more or less synonymously with the term strategy. Other scholars, for example, Newmark (1988) makes a distinction between translation methods and translation procedures. He states that translation methods relate to whole texts, whereas translation procedures are used for sentences and the smaller units of language" (p. 81).

Many attempts have been made by theorists and researchers of translation to clarify some of the fuzziness by trying first to establish basic terminology and going on to discuss definitions and classifications of translation strategies. The term strategy is used by Naoum (2001:178) in its wider cognitive –pragmatic sense to mean a genus step required to attain a certain goal systematically and effectively; it is a vehicle for carrying cognitive and / or pragmatic

meaning(s). Therefore, strategy as Naoum(ibid) points out, is any metalinguistic or metacognitive comment which leads to the discovery of a way through a problem. Krings (1986) and Lörscher (1991:8) agree that translation strategy is a potentially conscious plan for solving a problem faced in translating a text, or any segment of it. In this regard, Lörscher (ibid.) defines translation strategy as a global procedure that consists of a series of minimal problem-solving steps which the translator employs in making certain considerations about the text. These steps are combined in specific ways to build up structures which partly determine and partly delimit the decisions which are to be made on the hierarchically lower levels, such as syntax and lexis.

Cohen (1998) asserts that "the element of consciousness is what distinguishes strategies from these processes that are not strategic. " Furthermore, Jaaskelainen (1993:115) and Bell (1998:188) divide between the concepts of global (those dealing with whole texts) and local (those dealing with text segments) strategies and confirm that this distinction results from various kinds of translation problems. By the same token, Lörscher (1993: 209) observes that non-professionals are mainly concerned with a local, whereas the professionals are primarily concerned with global. Jaaskelainen (1999:71) maintains that strategies are "heuristic and flexible in nature, and their adoption implies a decision influenced by amendments in the translator's objectives. " Hervey and Higgins(2002:274) view that strategy is the translator's overall "game-plan", consisting of decisions taken after an initial read-through of all or part of the (ST) before starting to

translate in detail. When generalizable, a strategy can be construed as a rule, with the intrinsic ambiguity which characterizes this concept, as well as others such as "norm" or "law" (Mailhac 2006). Given that they are oriented towards the resolution of translation problems, strategies are teleological in nature ; they are not directly visible as part of the observable translation output. In principle, they fall into three categories: they can be conscious, potentially conscious or totally subconscious (ibid.).

To sum up, it could be argued that most theorists of translation agree that strategies are conscious acts and purposul. Strategies play an essential role in problem solving, and they can open the way to decide on a suitable solution for a translation problem. Finally it seems that the term strategy is broader than other terms such as procedures, techniques, and methods because it is an overall plan that covers such terms, which constitute decision-making tools based on choices and contribute to translation know-how. In this sense, translator should be a good decision-maker and, as in Katan's term (1999, cited in Hervey and Higgins: 31) be a "cultural mediator".

5. Analysis and Discussion

Theorists of translation (Nida, 1964; Newmak, 1982;1988, Venuti 1998)have suggested various classifications regarding translation strategies though they used different terms, as previously mentioned in the above section. Relying on the suggested classifications, strategies

presented by (Lörscher, 1991; Molina and Albir 2002 ; and Gregory, undated) will be adopted in this study.

1. Literal translation (null strategy): is the result of the application of a configuration of strategies with restricted scope. It involves small translation units: words phrases and sentences. It includes the application of the null strategy that is to say, direct transfer as the result of correspondence of structure and lexicon with little or no attention to semantic issues beyond lexical synonymy.
2. Borrowing. A word taken directly from (SL) into (TL).
3. Transposition: A different (TL) form is used to convey the (SL) message applied when the meaning content of the source and target units correspond but the translation requires a shift in word class, category or syntactic identity. The purpose of transposition is to achieve natural expression in the target language at the level of word and sentence structure. Note that semantic units (meanings) remain the same, but that structural elements of the sentence shift. Some transpositions are obligatory (they have to be made because of systemic differences in the languages, or because ambiguity is introduced) and others are optional (made to create natural expression).
4. Modulation: The (SL) message cannot be expressed in the same way in the (TL), not just because of form, but also because of cultural disparity. Whereas transposition is a shift between grammatical categories, modulation is a shift in cognitive categories.
5. Equivalence could be considered an extreme case of modulation. There are, in fact, no rigid lines between these

strategies. Equivalence requires the translator to know more about modes of expression, cultural meanings of the macrosigns, Equivalence is using expressions that have, actually, a different lexical meaning, but refer to the same cultural situation.

6. Adaptation: A given message is expressed by another equivalent situation; substitution of situations. Adaptation is used to make the content of the (SL) achieve cultural viability in the target environment.

7. Amplification - Concentration: The (TL) and (TT) require more words than the (SL) to express the same idea or the (TT)and language require fewer words than the original to express the original. Amplification is essentially a strategy of development which expands words, phrases, sentences or sentence groups because of requirements of form.

8. Explicitation - Implicitation: Serves to make explicit in the (TL) what is implicit in the (SL), or conversely, serves to make implicit in the (TL) what is explicit in the (SL). Explicitation, like amplification is another type of expansion, but it is done primarily on semantic grounds (where amplification is done primarily for reasons of form or of lexical synonymy). Explicitation occurs in three basic situations:

i t is required because of differences in mutual knowledge, or differences in understanding the situation;

ii t is required to specify ambiguity which might result from words or phrases that could be read in more than one way,

such as in sentences where there are imprecise relationships between object and event;

iii t is used to specify agents which are implicit in the source, such as when translating English passive voice constructions with understood agents;

9. Omission: The deletion of unnecessary elements from a (TL) text rendering using criteria of economy, textual style and naturalness of the (TL) expression.

10. Compensation: Every significant meaning loss that occurs in a translation unit must be compensated for in some other segment of the text. Translation often involves loss of meaning from a particular translation unit, a word, phrase, sentence. That loss can be recovered at another locus in the text.

The following tables show the strategies adopted by the students encountered the underlined terms. The judgment of the translation appropriateness has been made after presenting an interpretation of each term taken from (http://www. bls. gov/oco/oco2001. htm) and consulting proficient translators.

SLT. 1

SLT(1)	TLTs		Strategy adopted	Approp.
It is a criminal offence not to obey a **probation order** and is cause for being immediately jailed or having imposed the heavier sentence deferred by the probation order.	1	نظام تعليق العقوبة	Amplification Modulation Omission	-
	2	نظام المراقبة	Modulation	-
	3	أمر تعليق العقوبة	Amplification Modulation Omission	-
	4	أمر المراقبة	Modulation	-
	5	نظام مراقبة السلوك	Amplification Explicitation	-
	6	نظام مراقبة سلوك المذنبين	Amplification Explicitation	-
	7	أمر مراقبة المتهم	Amplification Explicitation	-
	8	نظام تعليق العقوبة مع المراقبة	Amplification Explicitation	+
	9	الإفراج تحت المراقبة	Amplification Modulation	-
	10	أمر تعليق العقوبة	Amplification Modulation Omission	-

Strategies needed	Appropriate Translation
Amplification Explicitation	نظام تعليق العقوبة مع المراقبة

The concept of Probation, by the very Latin roots of the word, means a testing to determine character and qualification.

It is a judicial act of grace and clemency under which the execution of a harsher sentence is suspended and a milder one is substituted on the very clear understanding that the harsher one will be reimposed if the person being tested fails to honour certain terms and conditions.

The analysis above shows that the translators have used one or more strategy to solve the problem of the culture – specific legal term (probation order). It is noted that some translators have taken part of the total meaning of the term ; precisely "suspending a sentence" and given their rendition to express this idea as in (تعليق العقوبة by 1, 3, and 10). They have used two strategies. First they have used more words than the (SL) (Amplification) and they have modified the meaning (Modulation) and omitted part of the message (supervision of a Probation Officer) (Omission). Others have taken another part of the message (supervision of a Probation Officer) and given their rendition to express this idea as in (المراقبة) by 2 and 4). Explicitation strategy has been used by some of them to make the message more explicit as in مراقبة السلوك, مراقبة سلوك (المذنبين, مراقبة المتهم) by 5, 6, and 7 respectively. Only one translator (No. 8) has expressed most of the required (SL) message using Amplification and Explicitation strategies in (نظام تعليق العقوبة مع المراقبة).

SLT. 2

SLT(2)			TLTs	Strategy adopted	Appr op.
Probation Officers and Parole Agents work with criminal offenders who may be dangerous. The areas in which they work may also be dangerous. In some counties Probation Officers are required to carry a fire arm.		1	ضباط مراقبة سلوك المجرمين	Null strategy Explicitation Amplification	+
		2	مراقبو السلوك	Modulation	-
		3	ضباط مراقبة المذنبين المطلق سراحهم	Explicitation Amplification	+
		4	ضباط المراقبة	Null strategy	+
		5	ضباط المراقبة	Null strategy	+
		6	ضباط مراقبة سلوك المذنبين	Null strategy Explicitation Amplification	+
Strategies needed	Appropriate Translation	7	موظفو اطلاق السراح المشروط	Modulation Explicitation Amplification	-
Null strategy	(ضباط المراقبة)	8	ضباط المراقبة	Null strategy	+
		9	مراقبو السلوك	Modulation	-
		10	ضباط اطلاق السراح المشروط	Explicitation Amplification	+

Probation Officers are officers of the courts and in this capacity they perform pre-sentence investigations and prepare reports on their clients. They develop plans to assist their clients return to a free society. They also have the responsibility of enforcing court orders that at times require the officers to make arrests, perform searches, seize evidence,

and arrange for drug testing. Probation Officers are also responsible for electronic monitoring of their clients and operating community correction programs such as work furloughs.

A culturally –bound lexical difficulty encountered in this example has been the translation of "**Probation Officers**". The strategy of explicitation has been used to clarify the meaning and make explicit in the (TL) what is implicit in the (SL) as it is noted in the renditions of (1, 6, and 10) who gave the rendition((ضباط إطلاق السراح المشروط. They have used more words to express the idea so the strategy of amplification is also used. Other translators have used the strategy of modulation as in (2 and 9) using مراقبو السلوك)). Translator no. (7) has used three strategies of modulation, explicitation and amplification giving the rendition of موظفو إطلاق السراح (المشروط). The most appropriate rendition would be ضباط) (المراقبة, using the null strategy as noted in translators (4, 5, and 8) who have used direct transfer and that is acceptable as far as the (SL) sentence and the (TL) sentence correspond in form and meaning, and the (TL) reader would infer the implicit information in the word (مراقبة). However, some (TL) readers would need explicitation as given by (1, 3, 6 and 10).

SLT. 3

SLT(3)	TLTs		Strategy adopted	Approp.
Probation Officers and **<u>Parole Agents</u>** work with criminal offenders who may be dangerous. The areas in which they work may also be dangerous. In some counties Probation Officers are required to carry a firearm.	1	عملاء إطلاق السراح المشروط	Amplification Null strategy	-
	2	وكلاء إخلاء السبيل المشروط	Amplification Null strategy	-
	3	عملاء إطلاق السراح المشروط	Amplification Null strategy	-
	4	وكلاء الضمان	Transposition Null strategy	-
	5	عملاء اطلاق سراح السجناء	Amplification Null strategy	-
	6	وكلاء اطلاق السراح	Amplification Null strategy	-
	7	عملاء اطلاق السراح المشروط	Amplification Null strategy	-
	8	قاطعي العهود بعدم الهرب	Amplification Adaptation	-
	9	مفوضي إخلاء السبيل	Amplification Modulation	-
	10	وكلاء اطلاق السراح المشروط	Amplification Null strategy	-

Strategies needed	Appropriate Translation
Modulation Explicitation Amplification	(ضباط إطلاق السراح المشروط)

The offenders may be on probation or parole depending on their legal status. A law offender who is given a probationary sentence may or may not have served time in a county jail. Once released, the offender is put on probation or county parole, depending on the offense and prior record. Offenders who have served time in a state or federal correctional facility are placed on parole when released. Both types of offenders are given a conditional release under the supervision of a Probation Officer or Parole Agent for a specific length of time. Three strategies are needed in this case. First, modulation is nesseccary because the message cannot be expressed in the same way in the (TL), not just because of form, but also because of cultural perspectives. Second, explicitation is also required to make explicit in the (TL) what is implicit in the (SL). Third, more words are required to express the same message ;therefore, amplification is a must. It is noted that all translators have inappropriately used direct transfer for the word "Agent", translating it into (عملاء أو وكلاء) which should have been rendered into (ضباط) to keep the message. As for the second part of the term "Parole", it differs from Probation in that they deal with Offenders who have served time in a state or federal correctional facility before being released. So, the most appropriate rendition for the two terms would be (ضباط إطلاق السراح المشروط) .

SLT. 4

SLT(4)		TLTs	Strategy adopted	Approp.
In England and some other Commonwealth jurisdictions, a legal distinction is made between **barristers** and solicitors.	1	محامي المرافعات	Amplification Modulation	+
	2	محامي المرافعات	Amplification Modulation	+
	3	محامي المرافعات	Amplification Modulation	+
	4	المحامي المترافع	Amplification Modulation Transposition	+
	5	محامي الإجراءات	Amplification	-
	6	محامي المرافعات	Amplification Modulation	+
	7	محامي المحاكم العليا	Amplification	-
	8	محام في المحاكم العليا	Amplification	-
	9	المحامي الذي يترافع في المحاكم العليا	Amplification Transposition Modulation	-
	10	محامي المرافعات	Amplification Modulation	+

Strategies needed	Appropriate Translation
Amplification Modulation	محامي المرافعات

There are stocks of words that are unique to law associated with the legal profession. A lawyer is a person licensed by the state to advise clients in legal matters and represent them in the court of law. Lawyers have many names in different countries. For instance, in England and some other Commonwealth jurisdictions there are generally two kinds of lawyers – solicitors and barristers. There are different titles of solicitor and barrister are a reflection of division of labour in the legal profession in these countries, and the influence of the early developments of the legal profession in England over those territories. In simple terms, solicitors advise clients, and barristers argue cases in court. A solicitor is a general legal practitioner who assists clients with legal advice, drafts and prepares various legal documents such as wills, documents for business transactions and for buying and selling houses(called conveyancing), negotiates terms of commercial contracts. On the other hand, a barrister is a legal specialist advocate who represents clients in court. Barristers often specialise in particular areas of law, such as equity, common law, criminal or family law. Sometimes barristers are referred to as counsels. They also write statements of claims, defences and cross-claims, and write advice or legal opinions on particular matters.

In England, thus, a legal distinction is made between barristers and solicitors; the latter with exclusive privileges of advising clients, providing legal advice, and the former with exclusive privileges of appearing in a court on behalf of a client. In other words, solicitors do not appear in court on a

client's behalf and barristers do not give legal advice to clients.

In an English institution, barristers perform certain functions that differ from those performed by their counterparts in Arabic institutions ;therefore, to attempt to find an exact equivalent in terms of rank and function would be very difficult, and further complicated by the fact that there is another term "solicitors" to refer to a near post. Dictionaries have suggested more than one rendering to solve the problem (محامي مرافعات ومحامي إجراءات), and most of the subjects opted for this suggestion. In fact, the above interpretation clarifies that barristers appear in a court on behalf of a client; therefore, (محامي مرافعات) is the most appropriate rendition using both the strategy of modulation and amplification. Seven translators(1, 2, 3, 4, 6, 9 and 10) have appropriately rendered the term under discussion using the strategies of modulation and amplification. Translator no. (5) have completely given a wrong rendition (محامي إجراءات). The rest (7 and 8) have given a completely unclear rendition (محامي في المحاكم العليا) that does not convey the same message to the (TL) reader.

SLT. 5

<table>
<tr><th colspan="2">SL (5)</th><th colspan="2">TLTs</th><th>Strategy adopted</th><th>Approp.</th></tr>
<tr><td colspan="2" rowspan="5">In some counties Probation Officers are required to carry a firearm. In England and some other Commonwealth jurisdictions, a legal distinction is made between barristers and <u>solicitors</u></td><td>1</td><td>محامي الإجراءات</td><td>Amplification Modulation</td><td>+</td></tr>
<tr><td>2</td><td>محامي الإجراءات</td><td>Amplification Modulation</td><td>+</td></tr>
<tr><td>3</td><td>محامي الإجراءات</td><td>Amplification Modulation</td><td>+</td></tr>
<tr><td>4</td><td>محامي الإجراءات</td><td>Amplification Modulation</td><td>+</td></tr>
<tr><td>5</td><td>محامي المرافعات</td><td>Amplification</td><td>-</td></tr>
<tr><td rowspan="3">Strategies needed</td><td rowspan="3">Appropriate Translation</td><td>6</td><td>محامي الإجراءات</td><td>Amplification Modulation</td><td>+</td></tr>
<tr><td>7</td><td>محامي تنظيم العقود</td><td>Amplification Modulation</td><td>-</td></tr>
<tr><td>8</td><td>محام عادي</td><td>Amplification Modulation</td><td>-</td></tr>
<tr><td rowspan="2">Amplification Modulation</td><td rowspan="2">محامي (استشاري</td><td>9</td><td>محامي الإجراءات</td><td>Amplification</td><td>+</td></tr>
<tr><td>10</td><td>محامي الإجراءات</td><td>Amplification</td><td>+</td></tr>
</table>

The above interpretation clarifies that solicitors advise clients, and provide them with legal advice; therefore, (محامي) استشاري is the most appropriate rendition using both the

strategy of modulation and amplification. However, such a work can be considered as conducting legal procedures as most of the translators did, so their rendition in (1, 2, 3, 4, 6, 9 and 10) as (محامي إجراءات) could be an appropriate rendition using the strategies of modulation and amplification. Translator no. (5) has given a completely wrong rendition (محامي المرافعات). The rest (7 and 8) have given unclear rendition محامي تنظيم العقود ,(محامي عادي) that do not deliver the same message to the (TL) reader.

<table>
<tr><th colspan="2">SLT(6)</th><th colspan="2">TLTs</th><th>Strategy adopted</th><th>Approp</th></tr>
<tr><td colspan="2" rowspan="3">The word jurisprudence has become synonymous for <u>case law.</u></td><td>1</td><td>قانون السوابق والأحكام القضائية</td><td>Amplification Explicitation</td><td>+</td></tr>
<tr><td>2</td><td>قانون الدعوى</td><td>Adaptation</td><td>-</td></tr>
<tr><td>3</td><td>نظام السوابق</td><td>modulation</td><td>-</td></tr>
<tr><td rowspan="3">Strategies needed</td><td rowspan="3">Appropriate Translation</td><td>4</td><td>قانون السوابق القضائية</td><td>Amplification Explicitation</td><td>+</td></tr>
<tr><td>5</td><td>قانون الدعوى</td><td>Adaptation</td><td>-</td></tr>
<tr><td>6</td><td>نظام السوابق</td><td>Modulation</td><td>-</td></tr>
<tr><td rowspan="4">Explicitation Amplification</td><td rowspan="4">(قانون السوابق والأحكام القضائية)</td><td>7</td><td>القانون المبني على قرارات سابقة</td><td>Amplification Explicitation Transposition</td><td>+</td></tr>
<tr><td>8</td><td>نظام السوابق</td><td>modulation</td><td>-</td></tr>
<tr><td>9</td><td>قانون الدعوى (السوابق القضائية)</td><td>Adaptation Amplification Explicitation</td><td>-</td></tr>
<tr><td>10</td><td>نظام السوابق</td><td>Modulation</td><td>-</td></tr>
</table>

SLT. 6

Case law is the entire collection of published legal decisions of the courts which, because of stare decisis, contributes to a large part of the legal rules which apply in modern society. If a rule of law cannot be found in written laws, lawyers will often say that it is a rule to be found in "case law". In other words, the rule is not in the statute books but can be found as a principle of law established by a judge in some recorded case. Two strategies are required in this example. First, explicitation is needed because the concept itself does not exist in the (TL). Therefore, it can not be understood without making it explicit to (TL) readers. Second, another strategy of amplification is invitable because more words are used to express the same meaning. Translators (1 and 4) have appropriately rendered the term into (قانون السوابق والأحكام القضائية), using the strategies of explicitation and amplification. A lesser degree of appropriateness is noted in (7) who, in addition to the above strategies, unneccessarily used the strategy of transposition. Translators (2, 5 and 9) have inappropriately used adaptation in a way that alters the meaning by giving the rendition ((قانون الدعوى. Others, including (3, 6and 8), though they have appropriately rendered the second part intoالسوابق , have inappropriately used modulation in the first part of the term giving the rendition of (نظام) instead of (قانون).

SLT. 7

<table>
<tr><th colspan="2">SLT(7)</th><th colspan="2">TLTs</th><th>Strategy adopted</th><th>Approp</th></tr>
<tr><td colspan="2" rowspan="3">There was probably never a time when the <u>common law</u> was not in some sense case law</td><td>1</td><td>القانون العادي</td><td>Null strategy</td><td>-</td></tr>
<tr><td>2</td><td>القانون العام</td><td>Null strategy</td><td>-</td></tr>
<tr><td>3</td><td>القانون العام</td><td>Null strategy</td><td>-</td></tr>
<tr><td>Strategies needed</td><td>Appropriate Translation</td><td>4</td><td>القانون العام</td><td>Null strategy</td><td>-</td></tr>
<tr><td rowspan="6">Modulation adaptation</td><td rowspan="6">(القانون غير المكتوب) (قانون الأعراف)</td><td>5</td><td>القانون العادي</td><td>Modulation</td><td>-</td></tr>
<tr><td>6</td><td>القانون العام</td><td>Null strategy</td><td>-</td></tr>
<tr><td>7</td><td>قانون العرف</td><td>Adaptation Modulation</td><td>+</td></tr>
<tr><td>8</td><td>القانون غير المكتوب</td><td>Adaptation</td><td>+</td></tr>
<tr><td>9</td><td>القانون العام</td><td>Null strategy</td><td>-</td></tr>
<tr><td>10</td><td>قانون العموم</td><td>Null strategy</td><td>+</td></tr>
</table>

Common Law is a Judge-declared law. A body of English law which originated with an oral tradition of tribal justice in Britain thousands of years ago and which developed into a unique, cohesive national body of law developed and set to writing by English judges over time, and which was eventually imported as the law of British colonies throughout the world. It exists and applies to a group on the basis of customs and legal precedents developed over hundreds of years in Britain.

It is certainly now common to speak of the common law to refer to the entire body of English law. The object of the common law is to solve difficulties and adjust relations in social and commercial life. It must meet sets of fact abnormal as well as usual. It must grow with the development of the nation. It must face and deal with changing or novel circumstances. Most of the translators (2, 3, 4, 6and 9) have inappropriately used the strategy of literal translation(Null strategy) giving the rendition((القانون العام. On the same line, translators (1 and 5) have adopted modulation strategy, yet producing inappropraite rendition (القانون العادي). On the other hand, appropriate renditions are noted in (7, 8 and 10)(قانون العرف, (القانون غير المكتوب) and (قانون العموم) respectively. All these renditions give the intended meaning of the word "common" and describe the term correctly using the strategies of modulation and adaptation.

SLT. 8

<table>
<tr><th colspan="2">SLT(8)</th><th colspan="2">TLTs</th><th>Strategy adopted</th><th>Approp</th></tr>
<tr><td colspan="2" rowspan="5">In England, by virtue of the <u>Probate Act</u> of 1857, the proving of wills was taken from the ecclesiastical courts and given to the regular or common courts.</td><td>1</td><td>قانون إثبات صحة الوصايا</td><td>Amplification Explicitation</td><td>+</td></tr>
<tr><td>2</td><td>قانون إثبات صحة الوصية</td><td>Amplification Explicitation</td><td>+</td></tr>
<tr><td>3</td><td>قانون إثبات صحة الوصية</td><td>Amplification Explicitation</td><td>+</td></tr>
<tr><td>4</td><td>قانون المواريث</td><td>Modulation</td><td>-</td></tr>
<tr><td>5</td><td>قانون إثبات صحة الوصية</td><td>Amplification Explicitation</td><td>+</td></tr>
<tr><td rowspan="2">Strategies needed</td><td rowspan="2">Appropriate Translation</td><td>6</td><td>قانون إثبات صحة الوصية</td><td>Amplification Explicitation</td><td>+</td></tr>
<tr><td>7</td><td>قانون إثبات صحة الوصايا</td><td>Amplification</td><td>+</td></tr>
<tr><td rowspan="3">Amplification Explicitation</td><td rowspan="3">قانون إثبات صحة الوصايا والمواريث</td><td>8</td><td>محكمة الاشهاد</td><td>Adaptation</td><td>-</td></tr>
<tr><td>9</td><td>قانون المواريث</td><td>Modulation</td><td>-</td></tr>
<tr><td>10</td><td>قانون إثبات صحة الوصايا</td><td>Amplification Explicitation</td><td>+</td></tr>
</table>

The word "Probate" refers to both the application process and formal certificate or order given by a court that certifies that a will has been proven, validated and registered and which, from that point on, gives the executor the legal authority to execute the will. This legal term needs two strategies. First, explicitation to clarify the meaning because the concept is not familiar in the (TL). Second, amplification is inevitable because more words are used to express the same meaning. Most translators have appropriately used these two strategies to produce an appropriate rendering as in (1, 2, 3, 5, 6, 7 and 10) (قانون إثبات صحة الوصية). On the other hand, translators (4 and 9) have used modulation giving only part of the message قانون المواريث which is not the case. Finally, a completely incorrect rendition is given by translator (8) محكمة الاشهاد. Such incorrectness can be attributed to the fact that the translator has no background legal knowledge of such terms.

Findings:

The following table illustrates the strategies needed and adopted in the samples of the study.

Text No.	Strategies needed	Strategies Adopted	F.	Approp.
1	Amplification Explicitation	Amplification	8	+
		Explicitation	4	+
		Modulation	6	-
		Omission	3	-

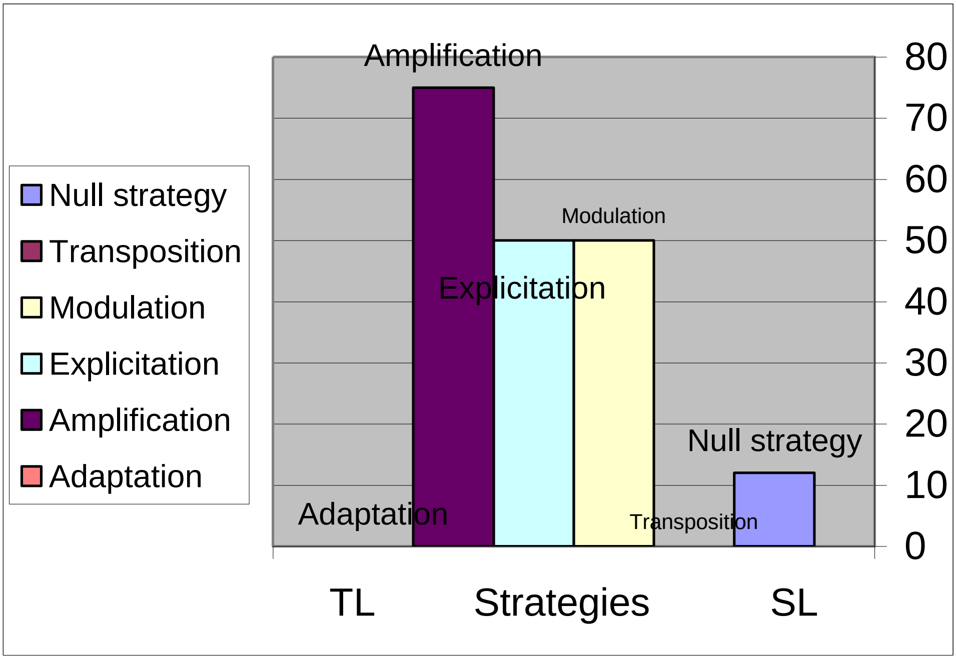
2	Null strategy	Null strategy	5	+
		Explicitation	5	-
		Amplification	5	-
		Modulation	3	-
3	Modulation Explicitation Amplification	Amplification	9	+
		Null strategy	8	-
		Modulation	1	+
		adaptation	1	-
		Transposition	1	-
4	Amplification Modulation	Amplification	10	+
		Modulation	7	+
		Transposition	2	-
5	Amplification Modulation	Amplification	10	+
		Modulation	7	+
6	Explicitation Amplification	Amplification	4	+
		Explicitation	4	+
		Modulation	6	-
		adaptation	2	-
		Transposition	1	-
7	Modulation Adaptation	Null strategy	7	-
		Modulation	2	+
		adaptation	2	+
8	Amplification Explicitation	Amplification	7	+
		Explicitation	6	+
		Adaptation	1	-
		Modulation	2	-

The following table shows the percentage of need, frequency of use, percentage of use, appropriate and inappropriate renditions

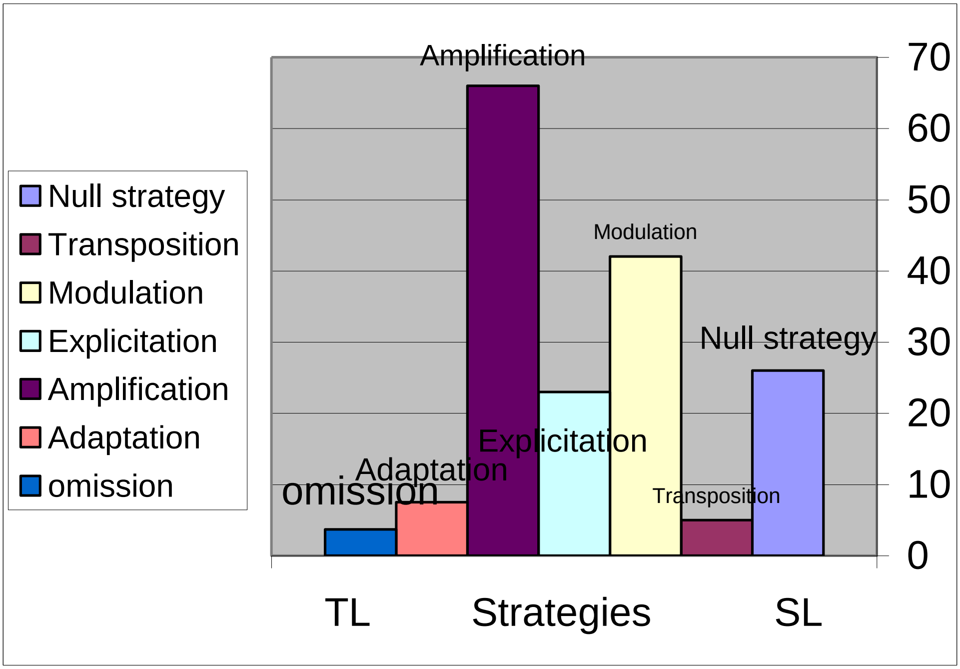
Strategy	Percentage of need	F. of use	Percentage of use	Approp. rendition	Inapprop. renditions
Amplification	75%	53	66%	60%	6%
Explicitation	50%	19	23%	23%	0%
Modulation	50%	34	42%	40%	2%
Adaptation	0%	6	7. 5%	0%	0. 75%
Null strategy	12%	21	26%	6%	20%
Transposition	0%	4	5%	0%	5%
Omission	0%	3	3. 7%	0%	3. 7%

The above table shows that five strategies have been adopted in the renderings of the texts analysed in this paper with different degrees (amplification (75%), explicitation (50%), modulation (50%), and null strategy (9%)). On the other hand, it shows that the strategy of amplification has been used in (66%), whereas, explicitation has been used in (23%), modulation in (42%), , null strategy in (26%), adaptation in (7. 5%) and transposition in (5%). The above strategies may be placed on a continuum ranging from SL- oriented strategies to TL-oriented strategies as shown in the following figures. The use of null strategy (literal translation) implies greater respect for the (SL) system. Therefore, it has been presented at one end of the continuum of (SL) oriented strategies. On the other

end, adaptation implies greater respect for the (TL) system. Therefore, it has been presented at the far end of TL –oriented strategies. Other strategies are descriptive or self- explanatory translation using generic rather than culture-bound terms to convey the meaning. These strategies differ in the degree of their respect for (SL) or (TL) systems as shown in the figures(1 and 2) below.



Figures (1): Percentages of (SL - TL) Strategies as needed in Samples



Figures (2):Percentages of (SL -TL)Strategies as used by Subjects

Conclusions:

One of the objectives in this paper is to ensure that the subjects made the right strategic decisions about the genre-marking characteristics of the text before stating their translation and to help them make adequate decisions when dealing with specific lexical problems. Bearing in mind that the subjects have limited knowledge of British law, the aim of the research is to help them minimise translation loss in order to achieve a translated text which is linguistically adequate and which preserves the cultural features of the original text. In translation between closely related languages and cultures, the

loss may be minimal. However, between such distant languages and cultures as Arabic and English, the loss can be significant. The main conclusions are stated hereafter:

1- The strategy of amplification is the most appropriate one in such texts due to the fact that these cultural specific terms need a kind of semantic explanation. However, other strategies are also used in other texts in a way that it can be said that the choice between SL- and TL oriented strategies when translating legal texts will depend on the law governing the text.

2-. The test subject used a wide variety of strategies related to translation. There is no one single ideal strategy, but each strategy can be appropriate for translating a particular kind of text or for a particular purpose in the target language. Hence, the translator needs first to identify the nature of the text typology, and then use the translation strategy.

3- Learning strategies may well prove the ability of the translators to capture appropriate renditions, though not the only magic wand to translation problems. This implies that effective strategies involving translation may be taught explicitly in the classroom in order to help students expand their repertoire of learning strategies and thus develop greater flexibility in their ways of approaching cultural specific terms in legal texts.

4- More attention should be given to the need to accommodate the linguistic and cultural elements of the source text in their translations. Not only will doing so lead to a better understanding of the original text, but it will also provide the

target reader with enhanced knowledge of the law and culture of the original text. After all, one reason that people turn to translated legal texts is because they seek to understand more about other cultures.

5- In cases where the translators adopted the SL-oriented strategy to transfer the linguistic and socio-cultural elements of the original terms, they were successful in conveying the meanings and implications intended by the original writers through their use of the terms, thus helping the target readers develop a similar understanding of the target texts as the original readers would have of the source texts.

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استراتيجيات ترجمة المصطلحات الثقافية في النصوص القانونية

د. سالم يحيى

الملخص

تًعد استراتيجية الترِجمة مصطلحا غامضا في نظريات الترجمة. فهي عميلة إيجاد حل لمشكلة تتخذ من خلالها القرارات. تستكشف هذه الدراسة الإشكالية في ترجمة النصوص القانونية التي تشكل صعوبة للمترجم, إذ تدرس استراتيجيات الترجمة التي يستخدمها طلبة الترجمة في ترجمة المصطلحات الثقافية في ترجمة النصوص القانونية ومدى نجاح وتأثير هذه الاستراتيجيات في نقل المعاني المقصودة لهذه المصطلحات. تتألف العينة من ثمان مصطلحات قانونية قام بترجمتها عشر طلاب ماجستير في قسم الترجمة / كلية الآداب / جامعة الموصل. وتحرت الدراسة عن تحديد أنواع ونسب استراتيجيات الترجمة التي استخدمها الطلبة وتكشف أن كل مصطلح يستدعي استراتيجية مغايرة يفترض أن يتبناها المترجم. وتوصلت الدراسة إلى أن إستراتيجية "الإفاضة" هي من بين أكثر الاستراتيجيات ملائمة في ترجمة هذه المصطلحات كما أدت الترجمات غير الملائمة إلى فقدان كبير للمعاني الثقافية والأبعاد الدلالية لهذه المصطلحات. وتؤكد الدراسة على ضرورة اهتمام مترجمي النصوص الانكليزية إلى العربية بالجوانب الثقافية لهذه النصوص.